

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SCOTT BOEHM and DAVID STLUKA,

Plaintiffs,

v.

SCHEELS ALL SPORTS, INC., et al.,

Defendants.

ORDER

15-cv-379-jdp

The court held an unscheduled telephonic conference to resolve a dispute concerning the scope of plaintiffs' inspection of the Scott's Brewery Collectibles stores, which was then underway. The court resolved the dispute for the parties on the call.

There are two main take-aways worth sharing with all parties. First, plaintiffs failed to respond to defendant's written objections to the inspection. If plaintiffs had timely attended to those objections, early court intervention could have been provided, and the last-minute dispute could have been avoided. Second, during the inspection, plaintiffs are entitled to document any photograph that they have reason to believe might be one of theirs; plaintiffs are not strictly limited to the works cited on Exhibit 1 to the injunction. However, plaintiffs are not authorized to collect evidence of alleged infringements of the works of others, and defendants are under no obligation to document their rights to sell any works other than those owned by plaintiffs. Discovery directed to finding infringements of works other than those owned by plaintiffs will be wasteful and unduly burdensome and it will lead to multiple irrelevant disputes about works that are not directly at issue in this case. Plaintiffs may also photograph the general space of defendants' stores for clarity of presentation at trial.

Although this ruling applies directly to plaintiffs' inspection of the Scott's Brewery Collectibles stores, this order may provide helpful guidance for future inspections.

Entered February 23, 2016.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge